

§ 151.1516

extraordinary conditions, is unable to effect a BWE before entering the Exclusive Economic Zone, and intends to discharge ballast water into the waters of the United States, must request permission from the Captain of the Port (COTP) to exchange the vessel's ballast water within an area agreed to by the COTP at the time of the request and then discharge the vessel's ballast water within that designated area.

(b) Once BWE is no longer an option under the schedule in §151.1512(b) of this subpart, if the ballast water management system required by this subpart stops operating properly during a voyage or the vessel's BWM method is unexpectedly unavailable, the master, owner, operator, agent, or person in charge of the vessel must ensure that the problem is reported to the COTP as soon as practicable. The vessel may continue to the next port of call, subject to the directions of the COTP or the Ninth District Commander, as provided by 33 CFR part 160.

[USCG-2001-10486, 77 FR 17306, Mar. 23, 2012, as amended at 77 FR 33970, June 8, 2012]

§ 151.1516 Compliance monitoring.

(a) The master of each vessel equipped with ballast tanks must provide, as detailed in §151.2070 of this part, the following information, in written form, to the Captain of the Port (COTP):

- (1) The vessel's name, port of registry, and official number or call sign.
- (2) The name of the vessel's owner(s).
- (3) Whether ballast water is being carried.
- (4) The original location and salinity, if known, of ballast water taken on, before an exchange.
- (5) The location, date, and time of any ballast water exchange.
- (6) The salinity of any ballast water to be discharged into the territorial waters of the United States.
- (7) The intended discharge port for ballast water and location for disposal of sediment carried upon entry into the territorial waters of the United States, if ballast water or sediment are to be discharged.
- (8) The signature of the master attesting to the accuracy of the information provided and certifying compli-

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ance with the requirements of this subpart.

(b) The COTP may take samples of ballast water to assess the compliance with, and the effectiveness of, this subpart.

[CGD 91-066, 58 FR 18334, Apr. 8, 1993, as amended by USCG-1998-3423, 66 FR 58391, Nov. 21, 2001; USCG-2002-13147, 69 FR 32869, June 14, 2004; USCG-2001-10486, 77 FR 17306, Mar. 23, 2012]

§ 151.1518 Penalties for failure to conduct ballast water management.

(a) A person who violates this subpart is liable for a civil penalty in an amount not to exceed \$27,500. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subpart for that violation.

(b) A person who knowingly violates the regulations of this subpart is guilty of a class C felony.

[USCG-2002-13147, 69 FR 32869, June 14, 2004]

Subpart D—Ballast Water Management for Control of Non-indigenous Species in Waters of the United States

AUTHORITY: 16 U.S.C. 4711; Department of Homeland Security Delegation No. 0170.1.

SOURCE: USCG-2001-10486, 77 FR 17306, Mar. 23, 2012, unless otherwise noted.

§ 151.2000 Purpose and scope.

This subpart implements the provisions of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701-4751), as amended by the National Invasive Species Act of 1996.

§ 151.2005 Definitions.

(a) Unless otherwise stated in this section, the definitions in 33 CFR 151.1504, 33 CFR 160.204, and the United Nations Convention on the Law of the Sea apply to this subpart.

(b) As used in this subpart:

Captain of the Port (COTP) means the Coast Guard officer designated by the Commandant to command a COTP Zone as described in part 3 of this chapter.

Constructed in respect of a vessel means a stage of construction when—

- (1) The keel of a vessel is laid;
- (2) Construction identifiable with the specific vessel begins;
- (3) Assembly of the vessel has commenced and comprises at least 50 tons or 1 percent of the estimated mass of all structural material, whichever is less; or
- (4) The vessel undergoes a major conversion.

Exchange means to replace the water in a ballast tank using one of the following methods:

- (1) *Flow-through exchange* means to flush out ballast water by pumping in mid-ocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of water has been changed to minimize the number of original organisms remaining in the tank.

- (2) *Empty/refill exchange* means to pump out the ballast water taken on in ports, estuarine, or territorial waters until the pump(s) lose suction, then refilling the ballast tank(s) with mid-ocean water.

International Maritime Organization (IMO) ballast water management guidelines mean the Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens (IMO Resolution A.868 (20), adopted November 1997).

National Ballast Information Clearinghouse (NBIC) means the National Ballast Information Clearinghouse operated by the Coast Guard and the Smithsonian Environmental Research Center as mandated under the National Invasive Species Act of 1996.

Port or place of departure means any port or place in which a vessel is anchored or moored.

Port or place of destination means any port or place to which a vessel is bound to anchor or moor.

Seagoing vessel means a vessel in commercial service that operates beyond the boundary line established by 46 CFR part 7. It does not include a vessel that navigates exclusively on inland waters.

Shipboard Technology Evaluation Program (STEP) means a Coast Guard research program intended to facilitate

research, development, and shipboard testing of effective BWMS. STEP requirements are located at: http://www.uscg.mil/environmental_standards/.

United States means the States, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

Voyage means any transit by a vessel destined for any United States port or place.

[USCH-2001-10486, 77 FR 17306, Mar. 23, 2012, as amended at 77 FR 33970, June 8, 2012]

§ 151.2010 Applicability.

This subpart applies to all non-recreational vessels, U.S. and foreign, that are equipped with ballast tanks and operate in the waters of the United States, except as expressly provided in § 151.2015 or § 151.2020 of this subpart.

§ 151.2013 Severability.

If a court finds any portion of this subpart to have been promulgated without proper authority, the remainder of this subpart will remain in full effect.

§ 151.2015 Exemptions.

- (a) The following vessels are exempt from all of the requirements of this subpart:

- (1) Any Department of Defense or Coast Guard vessel subject to the requirements of section 1103 of the Non-indigenous Aquatic Nuisance Prevention and Control Act, as amended by the National Invasive Species Act; or any vessel of the Armed Forces, as defined in the Federal Water Pollution Control Act (33 U.S.C. 1322(a)), that is subject to the "Uniform National Discharge Standards for Vessels of the Armed Forces" (33 U.S.C. 1322(n)).

- (2) Any warship, naval auxiliary, or other vessel owned or operated by a foreign state and used, for the time being, only on government non-commercial service. However, such vessels should act in a manner consistent, so far as is reasonable and practicable, with this subpart.

- (b) The following vessels are exempt from the requirements of §§ 151.2025